

SUPERIOR COURT OF ARIZONA  
MARICOPA COUNTY

CV 2010-005011

07/23/2012

HONORABLE BENJAMIN E. VATZ

CLERK OF THE COURT

W. Thompson

Deputy

DEUTSCHE BANK NATIONAL TRUST  
COMPANY

DOUGLAS A TOLENO

v.

DOUGLAS C RHOADS

DOUGLAS C RHOADS

DOUGLAS RHOADS  
3844 N 32ND ST  
STE 1  
PHOENIX AZ 85018

MINUTE ENTRY

On March 5, 2012, the Court heard oral argument on Defendant's Emergency Motion to Quash Writ of Restitution. During that hearing, Defendant argued, in part, that:

1. This matter had been accepted for review by the Arizona Supreme Court;
2. The Trustee's Deed upon Sale was a forgery;
3. The allegation of forgery had not been waived;
4. The issue is "...who do I owe, and how much?" and that he was entitled to see the note;

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5. The Court should recuse itself as it was incapable of providing Defendant with a fair trial notwithstanding the previous finding and order of the civil presiding judge to the contrary; and
6. He was entitled to an evidentiary hearing to address the above claims and others.

Following oral argument, the Court issued a detailed minute entry wherein it set forth its concerns for the lack of professionalism and respect displayed by Defendant during the hearing. The Court highlighted an incident of particular concern, observing:

“...Defendant conducted himself in a manner and tone that was at best, disruptive and disrespectful and at worst, confrontational. At one juncture, Defendant interrupted Plaintiff’s counsel and stood up, turning and taking an aggressive half-step in Plaintiff’s counsel’s direction. The Court had to order Defendant to be seated and to direct his comments to the Court.” (March 5, 2012 minute entry, p.2)

In response to the concerns set forth in its March 5, 2012 minute entry, the Court set a Status Hearing for the expressed purpose of addressing the accuracy of its perception of Defendant’s conduct. Although the Court stated that it would invite, but not require, a statement in response to those concerns, it directed that both counsel be present.

On March 19, 2012, Plaintiff’s counsel appeared at the 2:30 p.m. Status Hearing. Defendant did not. At the Court’s direction, a call was placed to Defendant’s law office to inquire about his absence. An answer machine picked up the message. The Status Hearing then proceeded wherein Plaintiff’s counsel gave a brief statement confirming the Court’s concerns. The Court then issued a minute entry and forwarded a copy of the same to the State Bar of Arizona.

On June 18, 2012, Plaintiff filed the subject Motion for Sanctions. Defendant has failed to respond. Pursuant to Rule 7.1 (a), Arizona Rules of Civil Procedure,

THE COURT FINDS that Defendant’s failure to appear at the Status Conference, request reconsideration of the Court’s minute entry of March 19, 2012, and respond to Plaintiff’s Motion for Sanctions are deemed a consent to the granting of Plaintiff’s Motion for Sanctions.

THE COURT FURTHER FINDS that Defendant has engaged in unjustified conduct that failed to comport with the standards of professional conduct for Arizona attorneys by:

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1. Misrepresenting to the Court that this matter had been accepted for review by the Arizona Supreme Court;
2. Misrepresenting to the Court that the Court of Appeals had determined that allegations of forgery had not been waived;
3. Advancing frivolous objections, such as an objection based upon his alleged right to see the note, knowing that it was contrary to Arizona law;
4. Requesting hearings before the Court when the issue before the Court was narrowly framed; and
5. Failing to conduct himself in a manner that demonstrates respect for the legal system and those who serve it by his words and tone as well as physically confrontational behavior.

THE COURT FURTHER FINDS the Defendant's actions caused unreasonable delay, were in bad faith and were without basis in fact or law.

NOW THEREFORE,

IT IS ORDERED that Plaintiff is awarded its attorney fees in the sum of \$1,000.00.

**IT IS FURTHER ORDERED signing this minute entry as a formal order of this Court pursuant to Rule 58, Arizona Rules of Civil Procedure.**

/ s / HONORABLE BENJAMIN E. VATZ

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JUDICIAL OFFICER OF THE SUPERIOR COURT

ALERT: The Arizona Supreme Court Administrative Order 2011-140 directs the Clerk's Office not to accept paper filings from attorneys in civil cases. Civil cases must still be initiated on paper; however, subsequent documents must be eFiled through AZTurboCourt unless an exception defined in the Administrative Order applies.